

National Science Foundation

§ 681.9

stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 681.6 When may NSF issue a complaint?

NSF may issue a complaint:

(a) If the Attorney General (or designee) approves the referral of the allegations for adjudication; and

(b) In a case of submission of false claims, if the amount of money or the value of property or services demanded or requested in a false claim, or a group of related claims submitted at the same time, does not exceed \$150,000.

§ 681.7 What is contained in a complaint?

(a) A complaint is a written statement giving notice to the person alleged to be liable under 31 U.S.C. 3802 of the specific allegations being referred for adjudication and of the person's right to request a hearing with respect to those allegations.

(b) The complaint will state that NSF seeks to impose civil penalties, assessments, or both, against the defendant and will include:

(1) The allegations of liability against the defendant, including the statutory basis for liability, identification of the claims or statements involved, and the reasons liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) A statement that the defendant may request a hearing by filing an answer and may be represented by a representative;

(4) Instructions for filing such an answer; and

(5) A warning that failure to file an answer within 30 days of service of the complaint will result in imposition of the maximum amount of penalties and assessments.

(c) The reviewing official must serve any complaint on the defendant and, if a hearing is requested by the defendant, provide a copy to the ALJ assigned to the case.

§ 681.8 How will the complaint be served?

(a) The complaint must be served on individual defendants directly, a partnership through a general partner, and on corporations or on unincorporated associations through an executive officer or a director, except that service also may be made on any person authorized by appointment or by law to receive process for the defendant.

(b) The complaint may be served either by:

(1) Registered or certified mail; or

(2) Personal delivery by anyone 18 years of age or older.

(c) The date of service is the date of personal delivery or, in the case of service by registered or certified mail, the date of postmark.

(d) When served with the complaint, the defendant should also be served with a copy of this part 681 and 31 U.S.C. 3801-3812.

PROCEDURES FOLLOWING SERVICE OF A COMPLAINT

§ 681.9 How does a defendant respond to the complaint?

(a) A defendant may file an answer with the reviewing official within 30 days of service of the complaint. An answer will be considered a request for an oral hearing.

(b) In the answer, a defendant—

(1) Must admit or deny each of the allegations of liability contained in the complaint (a failure to deny an allegation is considered an admission);

(2) Must state any defense on which the defendant intends to rely;

(3) May state any reasons why he or she believes the penalties, assessments, or both should be less than the statutory maximum; and

(4) Must state the name, address, and telephone number of the person authorized by the defendant to act as the defendant's representative, if any.

(c) If the defendant is unable to file a timely answer which meets the requirements set forth in paragraph (b) of this section, the defendant may file with the reviewing official a general answer denying liability, requesting a hearing, and requesting an extension of time in which to file a complete answer. A general answer must be filed